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THE HOMESTEAD BILL.

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REMARKS

OF

MR. BEALE, OF VIRGINIA,

ON

THE HOMESTEAD BILL.

DELIVERED IN THE HOUSE OF REPRESENTATIVES, MAY 6, 1852.

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The House being in Committee of the Whole on the state of the Union, and having under consideration the Homestead Bill—

Mr. BEALE obtained the floor, and said:

Mr. CHAIRMAN: I wish to give my opinion on this bill particularly, because it involves vital political principles that are about to be disregarded. I can take but a limited view of this subject in the brief time allowed me. In this debate the finger of scorn has been pointed to a certain class of politicians who have been denominated Abstractionists. Mr. Madison, in his report of 1799, setting out the true theory of Federal powers, and Mr. Jefferson, in carrying out this theory in the practical application of our affairs during his administration, are the prominent offenders of this class, and to those who would direct its action to the accomplishment of selfish and sectional purposes. I belong to the school of 1799. If the plain construction of the Constitution in the early and best days of the Republic is right and true, this bill is in violation of such opinions and the

practices growing out of them. No one doubts the just power of this Government to raise money. But any one at all conversant with constitutional law, ought also to know that this power does not carry with it an unlimited discretion in the *use* and *application* of money. The objects to which Congress may make a just application of money, or of public property, are *limited* by the specific grants contained in the Constitution, or to such other incidental powers *only* as are necessary and proper to carry those grants into execution. This may all have been done in error. It is barely possible that Congress ought to have had the power to suppress the liberty of speech and of the press, to have established a religion, &c., &c. But the facts are otherwise. This Government is derivative in its character, and has no beneficiary powers. That has been reserved to the States and to the domestic circle untrammelled, as it should be. The people and the States, in the fundamental law, have chosen to intrust to you that class of power by which, *and by which only*, you may work out the public good. Can any one point out such grants of power in the Constitution, or such incidents, as would characterize this bill as a necessary mode of procuring the public good in conformity to the fundamental law? It is scarcely pretended. It is spoken of as an act of supreme beneficence—our feelings of kindness and humanity are appealed to—it is based merely upon the old, and I had hoped the exploded doctrine of Federalism, that we are neither bound by the will of our constituents nor constitutional limitations, but may legislate at will for the *public welfare*. I would ask Democrats—who will forgive this repetition—have you any means of promoting the public welfare, except you confine your legislation within the pale of the Constitution? Have not the people and the States chosen to limit your action by the primordial



law? If this is not so—if this conclusion is an abstraction, where, I ask, but in your own will and pleasure, is the limitation to the most wild, experimental, and chimerical projects of legislation? Will gentlemen be so good as to point out what project may not be undertaken and, therefore, justified, because of the reason that it admits of the application of money, or is characterized by a lofty beneficence? You have, therefore, no constitutional power to pass this bill.

You are also restricted in the passage of this bill by solemn compact. When Virginia and other States ceded a large amount of those lands, it was upon the clear and well-known conditions that they were to be used for the express purpose of paying the debts and defraying the general charges and expenditures of this Government. Did you not accept them on those *terms*, and, having so accepted them, are you not bound, in good faith, to keep holy and untouched the *terms* of the contract? But some say, in answer to this view, “Virginia was a party to the contract of the Constitution of 1789, and by her consent placed the public lands at the disposal of this Government.” The disposal of those lands had been placed there before—there was no change expressed or contemplated in the transfer to the new Government. In proof of the assertion, there was no change in the *action of the Government* in this relation for many years of the good time of the Republic. Those lands acquired by purchase, as well as by donation, were used for the purposes set out in the cession act of 1784. You have, therefore, the construction the Government itself put upon this matter for the last forty years. We have had advancement in Government affairs, but no revolution that would abrogate previously-existing contracts in relation to pecuniary matters. But suppose we had, what is the practice of nations

in our own times in regard to this matter? Did not Louis Philippe pay to the United States twenty-five millions of francs for captures made of American property under the Imperial Government of France after several revolutions? Shall our Government feel itself less bound to observe its pecuniary contracts, especially when it is remembered that this cession of lands by the States at the period when made removed existing impediments, and greatly contributed to the formation of the Union? Do not tell me of precedents in the bestowal of the public lands heretofore; they were acts of a generous and unthinking beneficence to our own people struggling with the difficulties of settlement in a new country, without a cautious reference to your legitimate power. You may, for the effect it would have upon my judgment, as well refer to the precedents of legislation violative of the rights of speech and the liberty of the press of a former period. I disregard legislative precedent when opposed to what I esteem as fundamental political truth. The very act, however, which you are about to perpetrate will probably be heralded as precedent hereafter to weaken the force of constitutional obligation, and to break up this noble fabric of constitution and law into a convenient machinery to advance sectional and party interest, or to manage more efficiently a presidential election.

The sole argument made use of in this debate to sustain the constitutionality of this measure, is the mere assertion, that the prominent object of the Government in the acquisition of new territory was, *to its settlement*. That settlement was a consequence foreseen—that it was an element entering into and controlling to some extent the idea of its value, is true; that its cultivation, including the building up of towns and cities, with a wide-spread civilization, was anticipated, is probable, and formed, if you choose, a laud-



able motive for action. But are we not brought back to the inquiry, Does the object to be attained justify you in this description of means for its accomplishment? And does not the history of both the transfer and acquisition by purchase of those lands, give a very different, but the true view of the object intended by the Government? The Conventional Government *required* of the States the donations that were made. Could, I ask, the Convention which formed the Constitution have intended to violate the *terms* of the contract so recently made with the States? Were not those transfers made for the purpose of obtaining money for the uses of the Central Government at a period of great financial difficulty? And were not those acquired by purchase used and disposed of for the identical purposes, to wit, to pay the debts and defray the general charges and expenditures of the Government?

The advocates of this bill appear to admit that the donated lands were subject to sale for the purposes of revenue; but their argument based upon *settlement* is clearly predicated upon the presumption that the Government by the act of *purchase* of new territory had also acquired new and additional powers in the disposition of those lands; which is preposterous; because if additional powers can be obtained in this way, then time and a peculiar action may work an obliteration of all constitutional limitations.

If this is fancy and not fact, why, then, you can not only give them away, as you now contemplate, but you can also hire men out of the moneys of the Treasury, both to settle and to cultivate those lands; which is not pretended. The argument based upon settlement proves too much, and therefore is fallacious.

But suppose those barriers to the passage of this bill were removed, then, is it wise and prudent? Is it in con-

formity to the plan of our ancestors to advance the best interests of man? Is not the scheme of protecting the life liberty, and property of men sufficient of itself? Let the successful advancement in this country of all that constitutes national greatness and individual happiness, answer this question. Can gentlemen show an instance in the long history of our race, when governmental bounties were ever bestowed, except in the most corrupt times, and for most corrupt purposes? Bounties and despotism are near of kin to each other. Your system of pensions, running into sinecures on the one hand, and of flogging and ball-chaining in the Navy on the other, are weak imitations of European policy, that are hostile alike to the genius of our institutions and the sentiments of our people. Let us keep clear of both. Let us leave men to pursue their own good in their own way. God has implanted in the heart of man a self-love that impels him with sufficient speed, and needs not governmental propulsion. Let us make clear his way, and take care only that he does not run foul of the rights of others. This is as much, and perhaps more than government has effected anywhere or at any time. Beware of bounties. It destroys that energy of character and intrepid perseverance which has spread a high civilization from the Atlantic to the Pacific ocean, and which the drones of gifts and benevolences could never have effected.

What Democrat can go for this bill, when the argument in its support assumes as a government duty to interfere and direct labor, skill, and capital, by holding the temptation of bounties to a free people, and controlling labor by legislative bribe? Men manage their own affairs better than government can do it for them. To be let alone is in most instances a great blessing of political liberty. The peculiar condition of things in this country will, by the law



of demand and supply, direct the labor and pursuits of community in the best possible manner.

Will you, at the expense of the rights of the sovereignty and dignity of the State governments, induce the people of the United States to look up to this Federal Government as the only and sole dispensers of gifts and of bounties, indeed, the great beneficiary of the people, to the discredit and disrepute of their State governments, who have less means to bribe with so lavish a hand?

Again: as the public land belongs to all the people of the United States, does not your bill violate all ideas of equality, and therefore of justice, in bestowing it in such a manner that its benefits will only accrue to a part of the people?

Have you not, by the act of 1846, pledged the moneys arising from the sale of the public lands for the redemption of the principal and payment of the interest of some forty millions of dollars expended in prosecuting the Mexican war? And does not this bill, if it pass into law, violate that solemn and voluntary pledge, so recently made?

Suppose so improbable a suggestion as that the Representatives of the manufacturing States should favor the passage of this bill, for the reason, that if you withhold the means by which money will be placed into the public Treasury from the sale of the public lands, you thereby induce the necessity, in case of emergency, of causing an increase of duty on foreign importations by which the interest of your own peculiar labor is advanced. But suppose this effect were to follow, will it not operate in another point of view greatly to your injury? Why are the people of the Northeast engaged in manufactures? Because they occupy a sterile soil, a rigid climate, a dense population, cheap labor, and have acquired an excess of capital. Why are those of the South, the Southwest, and the Northwest consumers of

the products of your ingenuity? For causes precisely the reverse—a rich virgin soil, a bland and genial climate, a sparse population, high price of labor, with less pecuniary means. Do you not hasten a condition of things in the West that will change the relations at present existing, much to your disadvantage? How long will the people of the West pay transportation and profits on articles that they will make then as cheaply as you do now?

A strong objection may be made to this bill from its pecuniary consequences. When those lands are given away, no dollar can come into your Treasury from that source. You will then have to look to other means of revenue to sustain the cost of the system incurred by surveys, registers' offices, General Land Office at this place, together with the payment of Indian annuities already amounting to many millions incident to the purchase of those lands.

Gentlemen may think it patriotic if they advance the interest of their particular State or district. This may be so. But to have a regard to equality of rights, to justice, to constitutional obligation, constitutes, in my opinion, a much better, and the American definition of that term.